

MINUTES

NATURAL RESOURCES COMMISSION

OCTOBER 9, 2008

**Lansing Center
333 E. Michigan
Lansing**

PRESENT FOR THE NRC

Keith Charters, Chair
Frank Wheatlake, Vice-Chair
Mary Brown
Darnell Earley
John Madigan
J. R. Richardson

ABSENT FOR THE NRC

Hurley Coleman

PRESENT FOR DEPARTMENT OF NATURAL RESOURCES

Peter Manning, Legal Counsel
Rebecca Humphries, Director, Department of Natural Resources
Rodney Stokes, Chief of Staff
Mindy Koch, Resource Management Deputy
Teresa Gloden, Assistant to the NRC
Other DNR Staff

COMMITTEE OF THE WHOLE

Chairman Charters called the Committee of the Whole meeting of the Natural Resources Commission (NRC) to order at 3:15 p.m.

Chairman Charters recognized Commission of Agriculture Chair Jim Byrum.

2008 HUNTER EDUCATION VOLUNTEER INSTRUCTOR OF THE YEAR AWARD

Director Humphries presented the 2008 Hunter Education Volunteer Instructor of the Year Award to an individual from Michigan's western Upper Peninsula who has volunteered as a hunter education instructor for over two decades. **Dean Dallavalle** is a lifetime resident of Iron County and resides in Iron River. He has been a certified DNR Hunter Education Instructor since 1987, and prior to that time he assisted with hunter education classes for 5-6 years. **Mr. Dallavalle** is self-employed and runs a vending machine and game company. He recently mentored his son Anthony to become certified as a next generation volunteer hunter education instructor.

Mr. Dallavalle has been the lead instructor for the western Iron County Hunter Education classes that are held in the Iron County Schools and Camp Gibbs Recreational Area. Through donations, they have been able to collect almost every possible teaching tool for a successful hunter education class. They provide students with experience in muzzleloading, rifle, archery, shotgun safety, clay pigeon shooting, orienteering, hunting ethics, animal identification, and survival classes. **Mr. Dallavalle** has turned the Iron County Hunter Education Program into a county-wide event with dozens of volunteers.

He is a lifetime member of the Amateur Trap Association and was originally recruited to Hunter Education to teach firearms training. **Mr. Dallavalle** also serves western Iron County as a volunteer firefighter.

He enjoys predator hunting and trapping, as well as fishing. He is known for bringing in furs for the students to view and touch. **Mr. Dallavalle** plans to assist in teaching the new Trapper Education Program. Volunteerism and community involvement are very important to **Mr. Dallavalle**.

Director Humphries noted that **Dean Dallavalle** has displayed dedication to teaching all aspects of hunter education and has introduced thousands of children and adults to the outdoors. She congratulated and thanked him for his dedication.

DIRECTOR'S ACTION ITEMS – DISCUSSION ONLY

Director Humphries noted that proposed FO-234, Great Lakes Spearing Regulations, would be withdrawn and those regulations would be incorporated into FO-219, Waters Open to the Use of Spears and Bows.

Director Humphries noted that the DNR Legislative Update, Washington DC Legislative Update, Budget Update, and the Island Lake Shooting Range Report were all distributed to the NRC for review.

CHRONIC WASTING DISEASE (CWD) UPDATE

Director Humphries conferenced in **Dr. Mike Miller, State of Colorado**, to be available via telephone to participate in the discussion and answer any questions.

Dr. Dan O'Brien, DNR, reviewed the biology of CWD – a slowly progressive nervous system disease of mule and white-tailed deer, elk and moose. Transmission of CWD can be between animals via feed, soil contaminated by infected saliva, feces or urine. It is a fatal disease. It takes at least 18 months from the time of exposure to when signs of the illness appears. Therefore, there could be many carriers that are not apparent. The congregating of animals speeds transmission as well as geographic spread leaving the potential for catastrophic population declines. No state that has ever had CWD established in its wild population has ever been able to control the spread of the disease or eradicate it. Therefore, prevention is imperative.

The CWD Surveillance and Response Plan, co-written by the DNR and Department of Agriculture (MDA) in 2002, had two goals: 1) prevent the establishment of CWD in free-ranging cervids; and 2) protect the privately-owned cervid industry.

Dr. Steve Halstead, Department of Agriculture, said the original CWD positive animal was officially confirmed on August 25, 2008. Quarantine on the facility where it was detected was implemented. On August 26, 2008, the facility was depopulated. Also, all privately-owned cervids (POCs) in the Lower Peninsula were quarantined. Since that time, epidemiological information is being gathered such as animal movements, to determine where disease may be and to remove POC facilities from quarantine that have demonstrated they are not at risk of having or spreading the disease.

Testing continues on the herds associated with the index (CWD-positive) case that may lead to the further distribution or spread of the disease, and includes management practices, where the animals were received from, where they were sold, looking at management of deliveries to the farms, etc. Taxidermy businesses are also being investigated.

The index herd was a Kent County facility that was depopulated. No additional animals in that herd were CWD positive. Testing continues on those POC facilities with direct contact with the CWD positive herd as well as tier 2 herds. Kent County facilities have been tested and are considered tier 1. Tier two facilities are now being tested. That investigation is ongoing.

Dr. Halstead reported on POC samples submitted to MDA for CWD testing, as follows:

2002: 550
2003: 1304
2004: 826
2005: 1160
2006: 1421
2007: 1619
2008: 1672 (as of October 7, 2008)

Release of POC facilities from quarantine is based on the risk to other POCs and the wild deer herd. The MDA and DNR have prepared the "Cervid Industry Criteria for Release of Quarantine." Release of the herds are proceeding in accordance with that document and based on the risks of disease being in the facilities and, therefore, the risk of moving out. To date, 69 facilities have been released from quarantine.

Dr. O'Brien reported on DNR activities that have occurred since the activation of the CWD Response Plan. Since the index case confirmed CWD positive on August 25, 2008, the following has occurred:

- Ban on baiting and feeding of deer and elk in the Lower Peninsula
- Within the nine township CWD Surveillance Zone surrounding the index POC facility in Kent County:
 - Testing of 35 road-killed deer – all negative;
 - 226 disease control permits have been issued to private landowners; 74 deer tested - all negative;
 - Mandatory deer check at three check stations has been set up for hunters;
 - Limitations have been set for movement of carcass parts.
- Movement and rehabilitation of live wild deer, elk and moose is now illegal statewide;

- Increased testing of free-ranging deer statewide.

Since CWD was detected in a Kent County deer, DNR and MDA staffs have actively sought the critical input of recognized scientific experts on CWD from multiple agencies and jurisdictions across the country. These experts have confirmed that Michigan is taking a prudent course in the right direction for addressing CWD in the State.

Chairman Charters opened discussion for the Commissioners to ask questions of staff and Dr. Miller.

Commissioner Wheatlake asked at what point in time would the determination be made that there is only one isolated case of CWD in the Kent County area? **Dr. O'Brien** stated that wild deer surveillance, as is currently being done, would go on over the next three years as mandated by the CWD Surveillance and Response Plan. At the end of that time, the DNR should have a good idea of whether or not the disease is present in free-ranging deer.

Commissioner Wheatlake said Tier 1 and 2 testing is being done, is there a Tier 3? **Dr. Halstead** responded at this time there is not a Tier 3 because there is not information suggesting there is additional movement, in or out, that increases the risk. The response plan calls for five years of surveillance where there are open leads.

Commissioner Wheatlake asked Dr. Miller if, in his studies, there is a natural resistance that evolves with CWD in the indigenous population? **Dr. Miller** responded there appears to be some genetic influence on the longevity in the CWD infected deer. However, all animals eventually succumb regardless of their genetics, and there is no evidence of evolving resistant or development of immunity.

Chairman Charters questioned why only 50 deer are being tested in Genesee County where there is a high concentration of POCs. **Dr. O'Brien** said that the CWD Surveillance and Response Plan requires only 50 deer be tested from that county. However, more deer will be available for testing because of bovine tuberculosis surveillance. In the future, if more emphasis is placed on testing of wild deer from around POC facilities, more could be tested in Genesee County, as free-ranging deer are relatively abundant there.

Chairman Charters said that the report states that it could be a minimum of 18 months for the disease to show clinical signs in infected animals. Does that mean those tested could have been tested prior to the disease showing up? **Dr. O'Brien** said it takes six weeks after infection before current tests would detect the disease. Those tests would show an infected animal to be positive even before there are physical signs of the illness.

Chairman Charters said the main question being asked of the DNR and NRC is why is baiting and feeding banned in the entire Lower Peninsula when there is only one deer in a captive facility that tested positive to date. He also asked if there is CWD testing being done in the Shiawassee area in conjunction with the bovine tuberculosis (TB) testing. **Dr. O'Brien** referred back to the fact that it takes at least a year and a half before CWD-infected animals show signs of being sick. Consequently, there could potentially be deer currently out on the landscape that are infected and infecting other deer. There is no

way of knowing for sure where those deer might be at this point until many deer are tested. Any human practices, such as feeding and baiting, that cause deer to congregate could, therefore, be increasing transmission and geographic spread of CWD causing establishment in free-ranging deer. He also said the first 50 free-ranging deer being tested for TB will also be tested for CWD for each county statewide.

Commissioner Brown asked of Dr. Miller, how accurate the test for CWD is and whether there are alternatives that should be utilized? **Dr. Miller** responded stating, in his experience, the test being utilized for CWD is one of the more reliable diagnostics tests he has worked with over many years. In Colorado, between 50,000 and 75,000 animals have been tested over the past five years approximately, he could only recall one case that was a questionable test result. He did mention that there is a short time period (approximately six weeks) early in the course of infection where the test may not be able to detect infection.

Chairman Charters asked if there is any evidence currently in Colorado, or other states with CWD, of a significant CWD-related population decline? **Dr. Miller** responded that monitoring of the deer population has been occurring over the past several decades. In some localized areas, deer populations are down from the historical average, even where there is sufficient habitat to support higher numbers. He said modeling suggests that there is reason to believe if infection rates get high enough populations will decline. However, these declines are likely to take 20 to 30 years to become noticeable, and unfortunately during that time, CWD is established in the population, and it is too late to do anything about it.

Chairman Charters asked Dr. Miller if he believes the baiting and feeding ban in Michigan's Lower Peninsula is justified? **Dr. Miller** said Colorado has not allowed baiting and feeding for a long time. He said if the goal is to not allow CWD to become established in the wild herds, he believes keeping animals from congregating is a critical feature of preventive management. He said that he is somewhat amazed that, with the TB issues in the state, baiting and feeding has still been allowed. Compared to TB, the CWD prion longevity is much longer.

Chairman Charters asked Dr. Halstead if MDA is comfortable releasing POC facilities from quarantine? **Dr. Halstead** responded that, based on the CWD Surveillance and Response Plan, MDA is comfortable with those facilities that were released. Those that remain quarantined continue under surveillance.

Chairman Charters said he does not want to play Russian roulette with the deer herd. On the other hand, he said, the NRC's constituency is the hunters and fishers of the State. He does not believe it is fair that baiting and feeding is banned, yet the POC facility quarantines are being released. He asked if the risk factor of baiting and feeding is higher than in POC facilities. **Dr. Halstead** said MDA reviews many factors in POC facilities such as, have they submitted the required number of specimens for CWD surveillance; are they involved in the certification program; are their records up-to-date; and are they compliant with Act 190. He also pointed out that, under herd plans for some of the facilities that are low risk, it allows MDA to bring more specimens in for testing. **Chairman Charters** said the NRC wants to do everything it can do to prevent CWD getting into the wild deer herd. However, he believes everyone should have to endure the same level of pain.

Commissioner Wheatlake agreed with Chairman Charters in that the baiting and feeding decision is a big decision for the NRC. He asked if MDA has the appropriate authorities to place quarantines. **Dr. Halstead** has the authority to place authorities, but also for the MDA Director or his designees, to have access to the facilities to conduct inspections. He said there are plans to review regulations or policies to see if strengthening needs to occur. **Dr. O'Brien** said DNR has the tools it needs to address the CWD issue as long as the disease is not found in the free-ranging population. If DNR actions have to shift from surveillance to control, more resources will likely be needed.

Director Humphries stated that there are three areas where assistance will be needed in the future:

- 1) financial backing and finding the appropriate funding source to fund the CWD activities. Game and Fish Protection Fund monies cannot be utilized for the majority of these activities;
- 2) a critical review will be done on respective authorities;
- 3) will seek authority, if needed, to go on private lands to kill deer in the free ranging herd in a disease situation.

Commissioner Brown asked how quarantines can be released this soon after detection, since the disease takes six weeks to determine exposure? **Dr. Halstead** responded that facilities that are being released have been submitting specimens for a continuous period of time and have met the requirements of the program. Discussion ensued on testing types, but he stated there is no easy and reliable live-test available.

Dr. Halstead said the CWD deer in Kent County was tested three times – twice at the MSU Diagnostic Center for Population and Animal Health, and confirmed at the disease lab in Ames, Iowa. All three tests resulted positive for CWD. **Dr. Halstead** said the CWD positive deer in Kent County was a three year old doe and was born within the facility. The mother of that deer tested negative for CWD. Determining how this deer contracted the disease is still unknown. The POC facility where the CWD deer was found was in full compliance but was not a participant in the elective certification program.

Commissioner Richardson said that, if the NRC allowed baiting and feeding to continue and, subsequently, CWD was detected in the wild deer herd but could have been prevented, that would be a problem.

Peter Manning, Legal Counsel for the NRC, Office of the Attorney General, said on October 9, 2008, a hearing was held on whether the DNR properly issued the Interim Order which prohibited the baiting and feeding of wild deer and elk in response to CWD being found in Michigan. The Honorable Judge Joyce Draganchuk affirmed the DNR's authority to issue the Interim Order prohibiting the baiting and feeding of wild deer and elk in response to CWD being discovered in Michigan.

The plaintiff alleged that the Interim Order banning baiting and feeding of deer was issued in violation of statutory notice requirements, without evidence of risk or destruction of deer population and not based on sound science. After arguments by both parties, Judge Draganchuk ruled that the DNR did in fact comply with the notice

requirements of the statute and that the public had been on notice since the "Michigan Surveillance and Response Plan for Chronic Wasting Disease of Free-Ranging and Privately-Owned/Captive Cervidae" was adopted in 2002. That plan and the 2003 final report of the Governor's Chronic Wasting Disease Task Force, specifically provides that the DNR Director shall issue an Interim Order banning the bating and feeding of deer and elk in the event CWD is discovered in Michigan. Judge Draganchuk held that the documentation submitted by the DNR contained sufficient scientific information to support the issuance of the Interim Order to protect the deer and elk population from risk or destruction.

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The Committee of the Whole meeting adjourned at 4:30 p.m. The Public Appearances portion of the meeting convened at 4:50 p.m.

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PUBLIC APPEARANCES

Ron Andres
Mark Bartholomew, Barts Fruit Market
Mike Batterbee, Small Business Association of Michigan
Ed Beckley, M-65 Bait Shop
Monte Bordner, Michigan Cattlemen's Association
Dave Borgeson, Michigan Resource Stewards
Cindy Burns
Richard Ernst
Paul Farrell, Wolverine Sportsman Club
Ruth Feuhauf
Fred Gailey
Dean Hall, Michigan Bow Hunters
Ralph Hamilton, W. C. Cornwell Ranch
Jerry Keck, Tuscola County Archers
Tim Klein
Dawn Levey, Michigan United Conservation Clubs
Jay Maki, Tahquamenon Sportsman's Club
Bob McReavy, Roscommon
Tim Murray, Murray's Farm Market
Jeffrey Powers, Beaver Island Wildlife Club
David Smith
Amy Spray, Michigan United Conservation Clubs
Les Timmer
Robert Turney
Mark VanDen Bosch, John A. VanDen Bosch Company

Dave Borgeson, Michigan Resource Stewards, commended the DNR on the decision to ban baiting and feeding in the Lower Peninsula. He believes that bow hunting was not meant to be easy. He also supports a baiting and feeding ban in the Upper Peninsula; and supports elimination of privately owned cervid (POC) facilities. **Director**

Humphries said that new POC permits can be obtained. However, the heavy workload by the permit processors would delay issuance for a period of time.

Amy Spray, MUCC, supports the ban on baiting and feeding. She noted that on September 29, 2008, MUCC and the DNR held the “Science of Deer Management Symposium” in Mt. Pleasant. There were approximately 200 attendees from all major stakeholder groups. Positive feedback has been received, and future events are being planned.

Ms. Spray thanked the DNR for putting the spearing regulations on the Agenda for Director’s Action.

Ms. Spray announced the 2008 Michigan Out-of-Doors Presidential Forum and invited the NRC and staff to engage in a town hall discussion with the campaigns of Senator Barack Obama and Senator John McCain on Thursday, October 16.

Richard Ernst stated from March 1, 1989 to February 28, 1990, certain lifetime hunting and fishing licenses could be purchased by Michigan residents. He had purchased a lifetime license for each of his two sons at a fee of \$1,025.00. He believes this lifetime license entitles its owner to a bear hunting license without going through the lottery process. **Director Humphries** said the DNR will review this with the Office of the Attorney General.

Fred Gailey recommended that property owners have individuals who hunt on their property be required to register with that property owner. He claims he has had trespassing issues on his property. **Law Enforcement Division Chief Hagler** offered additional patrols on Mr. Gailey’s property and recommended he contact the “Report All Poaching” number or contact him direct if there are trespassers on his property.

Ron Andres requested, on behalf of his elderly Father, an amendment to the crossbow regulations to fully legalize crossbows. He specifically believes age should be considered in crossbow permitting.

Tim Klein said he does not want CWD in the deer herd, but said his disabled daughter who hunts needs baiting to bring in deer and to allow her to have time to site and draw a bow. He also encouraged broader public education on CWD. **Director Humphries** said public meetings are being held and all are open to the public. Staff of the DNR and Department of Agriculture are doing as much as possible, as quickly as possible.

Jay Maki, Tahquamenon Sportsmans Club, originally came to the NRC meeting prepared to urge lifting the baiting ban. However, after hearing the presentations made earlier in the meeting, he changed his mind and fully supports the ban. **Mr. Maki** believes it is time to review POC policies. He urged delisting wolves from the endangered species list.

Monte Bordner, Michigan Cattlemen’s Association, supports a permanent baiting and feeding ban. **Chairman Charters** asked what the farmers are doing about eliminating round hay bales in fields. **Mr. Bordner** responded that farmers have to have a wildlife policy on their property to qualify them for indemnity and that round bale management is being addressed.

Dean Hall, Michigan Bow Hunters, supports establishing a committee to address crossbow issues; supports decisions made relative to CWD; and supports the baiting and feeding ban.

David Smith reflected on the 1996 ballot Proposal G as passed as well as the 2007 MUCC resolution supporting the ban on baiting and feeding in the Lower Peninsula. He commended the Director for the Interim Order banning baiting and feeding and recommended the ban become permanent, or at least limit baiting to use of pelletized feed.

Paul Farrell, President, Wolverine Sportsman Club, supports the ban on baiting and feeding and urged the NRC to make the ban permanent.

Jeffrey Powers, Beaver Island Wildlife Club, noted that the large population of cormorants on Beaver Island is decimating perch and bass populations. He also discussed concern the baiting ban is having biologically, politically and economically. He believes there is lack of scientific justification; lack of concern for deer management unit management concerns; and concern over justification for the statewide Lower Peninsula ban. He recommended additional monitoring in the area the CWD deer was detected; lift the baiting ban for the remainder of the areas outside Kent County; develop better working relationships with hunting organizations, recreational deer observers, rehabilitators, agricultural producers, POC owners and business owners; and educate the public on the facts.

Mark Bartholomew, Barts Fruit Market, said if baiting is banned, the deer will be attracted to the hay bales and rounds in the fields. His business is negatively impacted by the baiting ban. He asked that the economic impact of the baiting ban be considered when the NRC makes its decision on banning baiting permanently.

Ralph Hamilton, W. C. Cornwell Ranch, supports the ban on baiting and feeding.

Ed Beckley, M-65 Bait Shop, is a bait retailer and is being negatively impacted by the baiting and feeding ban.

Mike Batterbee, Small Business Association of Michigan, said the baiting ban is causing economic hardships with some small businesses. He recommended revisiting the decision based on the economic impacts.

Tim Murray, Murray's Farm Market, said sales in his farm market have dropped nearly 90 percent. He does not believe that one CWD positive deer should affect the entire Lower Peninsula.

Mark VanDen Bosch, John A. VanDen Bosch Company, said the baiting ban has caused him a loss of business. He urged the NRC to modify the baiting ban limiting it to Kent County only. If the ban is not lifted, he requested a sunset on the ban.

Jerry Keck, Tuscola County Archers, requested that the process to obtain a modified bow permit be the same as for obtaining a crossbow. He believes if crossbows are allowed during bow season, the "sport" of bow hunting will be lost.

Dawn Levey, MUCC, supports a permanent ban on baiting and feeding; and said that the speakers at “The Science of Deer Management” symposium presented issues based on sound scientific management.

Ruth Feuhauf, wildlife rehabilitator, expressed concern that rehabilitators may lose the ability to rehabilitate fawns and suggested that decision may force the public to take fawns in illegally.

Cindy Burns, wildlife rehabilitator, is concerned with the baiting and feeding ban and is concerned that the public will raise fawns if the rehabilitation ban continues.

Robert Turner, Beaver Island hunter, supports comments made previously by Jeff Powers. He disputes that baiting causes the spread of disease.

Bob McReavy, Roscommon, supports comments made previously by Jeff Powers and asked that Dr. Powers be given more time to present his case.

Les Timmer believes that deer have nose-to-nose contact in fields as much as over bait; and believes that the baiting ban will damage retailers' businesses.

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The Public Appearance portion of the NRC meeting adjourned at 6:43 p.m. and the Regular Meeting of the NRC immediately convened.

**POSSESSION, TRANSPORTATION, AND REHABILITATION OF LIVE WILD DEER,
WILDLIFE CONSERVATION ORDER , AMENDMENT NO. 17 OF 2008**

This Order remains “FOR INFORMATION ONLY” to accommodate further discussions.

**APPROVAL OF MINUTES – SEPTEMBER 11, 2008 NATURAL RESOURCES
COMMISSION MEETING**

Commissioner Madigan made a motion, supported by Commissioner Wheatlake, for approval. Motion unanimously carried.

**BAN ON BAITING AND FEEDING OF DEER AND ELK IN THE LOWER PENINSULA,
WILDLIFE CONSERVATION ORDER, AMENDMENT NO. 15 OF 2008**

Commissioner Brown made a motion, supported by Commissioner Earley, for approval.

Commissioner Brown said CWD in deer is a very serious issue. She believes it is the appropriate policy to ban baiting and feeding in accordance with the CWD Surveillance and Response Plan.

Commissioner Earley realizes that a baiting and feeding ban will negatively affect some economies. Regardless, it is the charge of the Commission to protect the deer herd from CWD.

Commissioner Wheatlake said that everything that can be done to prevent CWD in the deer herd in Michigan should be done.

Motion unanimously carried.

CHRONIC WASTING DISEASE (CWD) SURVEILLANCE ZONE, MANDATORY CHECK, AND REGULATIONS ON REMOVING CARCASSES, WILDLIFE CONSERVATION ORDER, AMENDMENT NO. 16 OF 2008

Commissioner Madigan made a motion, supported by **Commissioner Wheatlake**, for approval. **Motion unanimously carried.**

REPLACEMENT KILL TAGS, WILDLIFE CONSERVATION ORDER, AMENDMENT NO. 18 OF 2008

Commissioner Madigan made a motion, supported by **Commissioner Earley**, for approval. **Motion unanimously carried.**

DIRECTOR'S ACTION ITEMS

Director Humphries stated her intent to sign all of the Director's Action Items on the Agenda **except the Great Lakes Spearing Regulations (FO-234)**. They will be incorporated into FO-219, Waters Open to the Use of Spears and Bows.

Commissioner Madigan commended staff for the Land Transaction Case #20031122, State Forest Land Exchange, Crystal Falls Management Unit, Iron and Dickinson Counties, and said it was a good transaction.

NRC POLICY COMMITTEE MEETING REPORTS

The NRC Policy Committee on Land Management met at 12:15 p.m. on October 9, 2008. See attached Minutes.

NRC Policy Committee on Wildlife and Fisheries met at 1:45 p.m. on October 9, 2008. See attached Minutes.

CROSSBOWS

Commissioner Madigan requested that the NRC Policy Committee on Wildlife and Fisheries host open discussion group meetings on Commission meeting dates to discuss several options for expanded crossbow hunting opportunities and possible regulation changes. **Chairman Charters** concurred.

COMMISSIONER'S REPORTS

Commissioner Wheatlake noted that the Snowmobile Advisory Committee will meet soon.

Commissioner Madigan requested that the authorities for POC facilities be brought back to the NRC in November. **Chairman Charters** directed staff to research and list authorities for POC facilities and deliver them to **Commissioner Madigan**. He also expressed concern with where authorities lie with facilities not totally in compliance.

Chairman Charters said the decision on banning baiting and feeding is a difficult one. However, the Commission must do what is best for the resource. He believes, however, that the burden needs to be shared equally across the board.

Commissioner Brown attended a DNR southwest Michigan quarterly meeting and stressed the importance of disseminating information on DNR issues to the public as much as possible.

The meeting adjourned at 7:07 p.m.

NRC Policy Committee on Land Management
Meeting Minutes
October 9, 2008
12:15 p.m.

Present:

Commissioner Keith Charters, Chair
Commissioner Mary Brown
Commissioner Frank Wheatlake
Commissioner J. R. Richardson
Commissioner Darnell Earley
Director Rebecca Humphries
Rodney Stokes, DNR, Chief of Staff
Resource Management Deputy Mindy Koch
Dave Freed, DNR, OLAF
Lynne Boyd, DNR, FMFM
Ron Olson, DNR, PRD
Russ Mason, DNR, Wildlife
Kelley Smith, DNR, Fisheries
Cindy Salmon, DNR, OLAF
Jim Wood, DNR, Grants Management
Jule Stafford, DNR, Grants Management
Scott Whitcomb, DNR, Wildlife
Doug Reeves, DNR, Wildlife
Dave Price, DNR, FMFM
Kerry Wieber, DNR, FMFM
Dennis Fox, DNR, Communications
Steve Sutton, DNR, Fisheries
Tom Wellman, DNR, FMFM
Jon Mayes, DNR, Land and Facilities
Ed Meadows, DNR, Land and Facilities
Paul Yauk, DNR, Parks
Garry Gamit, United Sportsmen Alliance
Julie Stoneman, Heart of the Lakes
Rachel Kuntzsch, Heart of the Lakes
Bryan Burroughs, Trout Unlimited
Kevin Korpi, Michigan Forest Products Council
Jim DeClerck, Saginaw Field & Stream
Rich Bowman, The Nature Conservancy
Jerry Crandall, MIRS
George H. Berghorn, Michigan Forest Products Council
Jean Hall, Michigan Oil and Gas Association
Frank Mortl, Michigan Oil and Gas Association
David Borgeson, Michigan Resource Stewards
Judy McReavy, Roscommon
Robert McReavy, Roscommon

Chairman Keith Charters called the meeting to order at 12:15 p.m.

OIL AND GAS ACTIVITIES

Tom Wellman, Forest, Mineral and Fire Management Division (FMFM), gave an update on oil and gas (O&G) activities.

With rising prices for oil and natural gas over the past year, the Department has had an unprecedented demand to lease state-owned minerals for O&G development. Previously, the DNR had established a maximum of 100,000 acres per auction (held semi-annually) due to staff's ability to handle the workload needed to review parcels for classification as well as required processing, public notices, etc. Industry (much of the new interest was from outside of the state) was pressing the Department to allow nominations in excess of 100,000 acres per each auction.

Following negotiations with representatives of the Michigan Oil and Gas Association earlier this year, the Department reached a compromise where it agreed to classify the first 100,000 nominated acres according to existing procedures. Nominations in excess of 100,000 acres would be automatically classified as non-development without review by the field staff. In this way, additional acreage could be put up for auction, but did not require additional field resources to classify, and it automatically received the most restrictive classification for leaseable land.

The DNR's previous auction in May 2008 offered approximately 150,000 acres, all of which was leased, and raised nearly \$14,000,000. Staff is looking forward to the next auction scheduled for October 27 and 28 where the DNR will offer 263,000 acres.

While this process has been very successful at getting more acreage leased, it has put strains on the DNR's ability to handle the increased workload. Likewise, the continued high level of development activity has strained field staff's ability to respond to permit and easement requests in a timely manner while keeping up on their other responsibilities. As a result, the Office of Land and Facilities hired a property analyst in Lansing and are in the process of interviewing for two Land Use positions in the field that will be focused on oil, gas, and mineral development.

With continued high commodity prices, the DNR set a record in minerals revenue for Fiscal Year 2008, totaling more than \$101,000,000 based on mid-September's receipts. Staff estimates the 2009 and 2010 revenue to be about \$75 million and \$74 million, respectively.

NEW ADDITIONAL INTEREST IN MINERAL EXPLORATION

The DNR have also recently received nominations for about 84,000 acres in the central Lower Peninsula to explore for and develop potash on state-owned minerals. Potash consists of potassium rich salts such as potassium chloride, potassium oxide, and potassium carbonate, which are used primarily in the manufacture of fertilizers and glass. Exploration occurs much like oil and gas where wells are drilled to deep depths to test areas for commercial deposits. If a commercial deposit is found, then a group of wells is drilled to develop a gallery, and the product is removed by solution mining – similar to what has been developed in the Hersey area over the past 20 years.

FEES

At the request of the Governor's office, Forest Mineral and Fire Management will conduct a review of the fees it charges for performing services and transactions for all mineral program related activities. These are fees generally designed to cover the costs of staff time spent in review and processing the applications/requests. The objective is to determine if the fees are sufficient to cover staff costs. Conducting the review and making recommendations will take about nine months.

Chairman Charters asked why the minerals revenues went from \$100 million in FY 2007-2008 to a projected revenue of \$75 million in FY 2008-2009? **Tom Wellman** said part of the reason is price fluctuation, and volumes have been declining approximately five percent per year.

Lynne Boyd, FMFM Chief, said there is a fee associated with reclassification so that will help. The industry will be more prudent in asking for reclassification.

Commissioner Mary Brown asked about subsidence in potash mining. **Tom Wellman** said the opportunity for subsidence is nil.

Frank Mortl said this is a good thing. The royalty goes directly into the Game and Fish Protection Fund. Competitors from other states are coming into Michigan. MOGA is thankful for the increase in acres and will view it as a partnership with the state. He thanked the DNR for having a two day sale.

GAS STORAGE

Tom Wellman said in the last year, FMFM has also received nominations for an additional 13,000 acres in 16 projects for natural gas storage. Michigan leads the country in gas storage with about one trillion cubic feet of capacity. Gas storage helps stabilize the price of natural gas because excess gas is put into storage in warmer months when demand is low so it is available in colder months when demand is high. These projects are in various stages of review with two of them ready to go on the NRC agenda. Staff has held up further processing of these projects pending a review of lease terms, particularly the rental that is charged for gas storage operations. The DNR wants to compare the rental rates charged in other states and determine if it is receiving proper value for this type of operation. We expect this review to take about three months.

Deputy Mindy Koch wanted to point out that the DNR hasn't had a new application for a gas storage facility in a long time. It is a big investment up front, but the market price is providing incentive for this as well. That's why the DNR wants to take a look at leases before we move too far ahead.

CONSERVATION EASEMENTS

Rodney Stokes, Chief of Staff, said **Chairman Charters** had asked that the DNR consider developing criteria for acquiring conservation easements. In developing the criteria, two items would be considered: 1) What situations would the Department advocate for a conservation easement? 2) How would the Department monitor state ownership and/or management of conservation easements?

Criteria to be used in determining whether to acquire conservation easements would be:

1. Does it have public access?
 - a. Are there barriers to access?
 - b. Is the access adequate?
 - c. Would a sign-in be required to get permission to enter the land.
2. Does it provide recreation opportunities such as hunting, fishing, and trail use?
3. Is it in the boundaries of state project areas or does it protect a unique natural area or wildlife corridor?
4. What are the costs of owning it versus a fee simple title?
5. By purchasing a conservation easement, will the DNR be foregoing future revenues like timber harvest income or mineral royalty income?

Chairman Charters added that as we consider future conservation easements, this is a list of the things the DNR will consider. **Chairman Charters** also noted that it takes staff time to monitor a conservation easement, and asked where would that money come from? **Mr. Stokes** said the DNR has a responsibility to monitor these, and needs to determine where that money will come from.

Commissioner Mary Brown arrived at the meeting as did **Rachel Kuntzsch, Heart of the Lakes** and **Julie Stoneman** from **The Nature Conservancy**.

Commissioner Wheatlake stated that he is not an advocate of purchasing conservation easements unless we can provide public hunting opportunities in the southern third of Michigan.

Commissioner Richardson said the DNR needs to know what “Plan B” is for the land if the state doesn’t invest in a conservation easement. **Mr. Stokes** said that is taken into consideration.

Deputy Koch noted that one of the funding sources that we have utilized is Forest Legacy. That fund is specifically for this type of situation. The DNR is working with that program to receive revenue that comes off those lands, like Kamehameha, from timber harvest, etc. to use for management.

Rich Bowman, The Nature Conservancy, suggested adding environmental function to criteria #3 including a source water protection or specific areas that are important to natural system functions. He agreed that monitoring easements costs money – up to 20 percent more.

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Commissioner Darnell Earley arrived.

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Rachel Kuntzsch added that public access is subjective and needs to be discussed more.

Chairman Charters asked if **Mr. Stokes'** document will go before the Michigan Natural Resources Trust Fund (MNRTF). This is a work in progress. **Deputy Koch** said if a conservation easement is a DNR application to the MNRTF and the NRC has an issue with it, the NRC may provide input to the Director before it is approved at an NRC meeting.

MICHIGAN NATURAL RESOURCES TRUST FUND (MNRTF) APPLICATIONS

Deputy Koch noted that **Rodney Stokes, Chief of Staff**, who oversees the staff of Grants and the MNRTF Board, provided general information on the MNRTF applications that have been submitted. Applications are received by April 1 every year, and final decisions are made in December. This year, 54 applications for land acquisitions were received (35 from local units of government and 19 from the State) for a total of approximately \$62.1 million. For development projects, 105 applications were received (94 from local units of government and 11 from the State), for a total of approximately \$26.1 million. This is a total of \$88.2 million total.

The above figures were last calculated in August (before the stock market dropped), so there will likely be some changes in the later part of November. In August it was estimated that there would be approximately \$43.6 million available for this year. With 25 percent for development and 75 percent for land acquisition, that would equal \$31.9 million for land acquisition and \$11.7 million for development.

Deputy Koch reviewed the MNRTF application process. Trust Fund liaisons represent different program areas in the DNR. Input is received from DNR staff as well as the public on property acquisitions and recreational development needs. Tier 1 projects are the highest priority, and Tier 2 projects are also very desirable, but are a lower priority. Typically there is not enough money available for all the desired parcels or development projects.

Ms. Koch reviewed the 2008 Tier 1 and Tier 2 Acquisition Project Applications as submitted for possible funding.

Chairman Charters, also a MNRTF Board member, and **Commissioner Wheatlake** are pleased with the applications. Discussion ensued.

Chairman Charters adjourned the meeting at 1:30 p.m.

Policy Committee on Wildlife and Fisheries
Meeting Minutes
October 9, 2008
2:00 p.m.

Fisheries

A bill passed by the legislature has given the Director authority to put orders in place for spearing. A proposal for extending the pike spearing season by opening it on December 1 is being considered. Also, a whitefish spearing season for the Great Lakes is proposed.

The legislature provided the Director with the authority to issue regulations regarding the number of fishing rods allowed when fishing. Specifically, the Director may allow the use of three fishing rods but may not restrict the number of rods to less than two. Fisheries Division is proposing allowing three rods per person. Pier anglers oppose the change from two rods to three because of the space limitations on piers but Fisheries Division reported that most anglers support the proposal.

A proposal for raising the daily salmon bag limit to five was discussed. Fisheries Division is recommending that the bag limit be raised, but the Charter Boat Association is opposed to the proposal. A representative of the Charter Boat Association was provided the opportunity to address the committee and he indicated that the Association would prefer that the limit remain at three because it saves high-priced fuel and provides satisfaction for customers when they limit on salmon during a charter.

Wildlife

Al Stewart gave a presentation explaining the process involved in setting spring wild turkey hunting regulations. He indicated spring 2009 will be the second year of a three-year stabilized regulation program for spring wild turkey hunting. The only changes Wildlife Division is recommending involve technical corrections to the Wildlife Conservation Order that remedy omissions made when the Order was last addressed. Specifically, Cheboygan County was left off the list of counties included in area “J” and a specific date was listed for the “ZZ” hunt rather than the proper description (e.g. beginning the third Monday of April). A past president of the Michigan Chapter of the National Wild Turkey Federation spoke in favor of keeping the regulations stable and mentioned that the Michigan Wild Turkey Hunters Association had also provided a letter explaining that it also desires keeping the regulations stable for the three-year period.

Additional Items:

Commissioner Madigan indicated he intended to begin additional work on crossbow use in Michigan. He asked **Dennis Knapp, Assistant to the**

Resource Management Deputy, to review results of the Crossbow Working Group which met earlier in the year that resulted in Wildlife Conservation Order, Amendment No. 14. Dennis also reminded the Commissioners that a bill had passed the House that would open seasons for crossbows. That bill has not passed the Senate, but it provides impetus for additional crossbow discussions. Four options were mentioned for consideration: 1) maintain status quo and see how the changes made just this year work out in practice; 2) establish a minimum age for crossbow use; 3) make crossbows legal for any season and any species for which there is a hunting season; 4) create a separate deer season for crossbow hunting. Dennis also mentioned that ample opportunities for public feedback on crossbow use will be provided. Specifically, a survey will be made available online at the DNR website, written correspondence to the Commission and Department will be encouraged, and public testimony from that many parties as participate will be taken at specified times on the days of Commission meetings. Commissioner Madigan mentioned that members of the Crossbow Working Group will be notified of the meetings will be and invited to attend, but other interested parties will be welcome to participate as well.

The meeting adjourned at 2:50 p.m.

Approval: _____

Keith J. Charters, Chair

Rebecca A. Humphries, Director